IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.7217 OF 2006

M/s.Merck Ltd. ..Petitioner.

V/s.

Union of India & Ors. ..Respondents.

Mr.N.S.Thakkar with B.Das i/b. Gagrats for petitioner.

Mr.P.S.Jetly with B.A.Desai, Addl. Solicitor General for respondents.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 28TH FEBRUARY, 2007.

P.C. :-

Heard the learned counsel for the petitioner and the respondents. By this petition, the petitioner is seeking compliance of the order dated 1st January, 2004 passed by the CESTAT whereby the CESTAT had allowed the appeal filed by the petitioner and in view thereof, the petitioner is seeking refund of amount of Rs.20 lakhs, being the amount of deposit made, pending during investigation.

2. The respondents aggrieved thereby had filed a Special Leave Petition before the Hon'ble Supreme Court with regard to the aforesaid order dated 1st January, 2004 and the Supreme Court has already

admitted the Special Leave Petition and the same is pending before the Hon'ble Supreme Court. It appears that there is no stay granted by the Supreme Court till date. In view thereof, the learned counsel for the respondents submitted that they have already refunded the amount of Rs.20 lakhs by an order in original dated 22nd January, 2007 whereby the amount has already been paid to the petitioner.

3. Learned counsel for the petitioner has referred to the Judgment in **Union of India V/s. Honda Siel Cars India Ltd.** reported in **2007 (208 E.L.T. 324 (Del)**. The facts and circumstances of the said case will not be applicable to the facts and circumstances of the present case.

4. Since the matter is now pending in the Supreme Court and the issue of interest is also pending, we are not inclined to entertain this petition. Petition is dismissed.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)